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Fiscal and social-economic coordinates in the analysis of the salary policy in Romania

Florentina Pantazi^a, Boni Mihaela Străoanu^b^a *The Body of Expert and Licensed Accountants of Romania (CECCAR), 4A I.H.Radulescu Street, cod 100311, Ploiesti, Romania*^b *Petroleum and Gas University of Ploiesti, 39th Bucharest Bvl, cod 100680, Ploiesti, Romania PO BOX 52*

Abstract

Theoretically, Romania has familiarized with the International Accounting Standards, although where salary-earners are concerned, the fiscal system must be able to support financially the concepts imposed by these standards in order to apply them in company's life and implicitly, the life of the salary earners. In the European and world vision, a major but natural importance is granted the salary earners. These are new concepts, approaches which pose a series of problematic topics aimed at the importance of salaries in a company. They are the producers of riches and occupy a well deserved place after the investors as the most important category of users of the financial information.

After 1989, in Romania did not take place a very turned into a media event public debate with the subject of taxation principles, the subject of destination of the collected amounts. Very few citizens and few local elected people knew the proportions in which the income tax represented sources for various local budgets.

Only the radical reform – “fiscal reform” – generated by the introduction of the unique taxation quota brought this subject on the agenda of the population. There were yet other fiscal subjects which generated discussions in time – introduction of VAT, global taxation – but the introduction of the unique quota gives the theoreticians and decision-makers the possibility to verify in practice the veracity of an economic theory.

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1. Milestones to settle the salary package

“Traditionally, remuneration, including in equal measure salaries and social advantages, is conceived as a concrete manifestation of the exchange between two parties: individuals and organizations. This exchange can be understood as a transaction with several facets, that is economic, psychological, sociologic, politic and ethic^c.”

Perceived as an economic transaction, remuneration represents first the price an organization pays to use a production factor. Employee's work represents one if the production factors which the organization needs in order to

^a Tel.: +40.740.80.28.45, E-mail address: pantazi_flory@yahoo.com

^b Tel.: +40.745.07.02.03, E-mail address: boni.straoanu@yahoo.com

^c Marinaş, Cristian; Manolescu, Aurel, scientific adviser – *Compared management of human resources*, A.S.E. Publishing House, Bucharest, 2006

be able to operate at the same extent in which it needs yet other factors, such as technology, raw materials. In this context the buyer attempts to obtain the largest quantity and the best quality at the most advantageous price.

The service price (work) depends on the offer and demand. Otherwise, it is important to note certain particularities of this approach.

First, the demand for labor force is a derived function of the demand for products and/or services. Second, what is not used today cannot be used tomorrow (man's work is a perishable product). In the end, while the service seller (work) asks to have a price settled before rendering the service (work), the buyer will know the price he can pay after the service is rendered (this price will be the cost per production unit).

In practice there were brought numerous critics to such a concept about remuneration and^d:

1. the economic-type analysis is oriented especially towards the organization and less towards the individual;
2. retributions are limited only to the monetary nature ones;
3. the employee is considered as a passive production factor;
4. the assessment of the transaction is made exclusively in economic terms and not in psychological and economic terms.

No doubt, work remuneration affects concomitantly the organization (that is the financial and social balance in the long run) and the employees (financial situation, satisfaction and implicitly, their motivation). Under such conditions, remuneration must be understood – and treated – as an important lever of economic and social regulation which must, consequently, be “manipulated” very carefully, using the most rational rules, that is, a remuneration system which, in order to be efficient, must provide the “arbitration” between:

- the remuneration (reward) of each post in the organizational structure of the organization in such a way as all posts are requested and, implicitly, occupied;
- the remuneration (reward) of the potential of each employee, his/her performances, in such a way as to stimulate professional evolution, high performance;
- assurance of certain social advantages, in good measure independent of employee's performance. To this end, the remuneration system must be designed in such a way as to have the following characteristics:
- is based on a triple balance between: a) budgetary rationality, that is, level of the salary mass^e; b) external competitiveness; c) internal equity.

Even though the remuneration system is complex and dynamic or maybe just because of that, the management of the organization must elaborate procedures for settling and modifying salaries (remunerations) as simple as possible, able to be understood and, implicitly, accepted by all employees.

Two of the strategic objectives of remuneration, employees' motivation and fidelity, make reference to employees' behavior which, in its turn, conditions the performances of a company.

The level of salaries in an organization depends on an assembly of criteria and there can be distinguished two facets: that of the general level of salaries (that is the level according to the ensemble of the organization) and that of the specific levels of salaries paid the holders of various positions.

^d Sonnenberg, Gabriela Melania; Mercioiu, Vasile, scientific adviser – *Tendencies and prospects in human resources management*, A.S.E. Publishing House, 2005

^e For instance: a level of the salary mass above the real possibilities of the company will endanger the payment capacity; individual remunerations which do not take into consideration the price in the labor market endanger the organization by two serious dysfunctions: employment is achieved with ever more difficulty and ever greater compromises due to lack of candidates and there are ever more recorded requests of leaving – by transfer or resignation – the company.

2. Fiscal treatment of the benefits granted the employees

The gross income from salaries represent the totality of revenues earned as well as the advantages received by a physical entity per each earning position, irrespective of the name thereof or the form under which they are granted. The fiscal code makes reference to art. 55, paragraph (1)-(3). The income in kind is considered paid at the last payment of the salary rights for the respective month. The tax related to the advantages in kind is deducted from the salary received by the employee in cash for the same month.

The advantages in cash and the equivalent in lei of the advantages in kind are taxable at the level of the employee, irrespective of the organizational form of the employer who grants them.

Certain advantages form the object of a lump assessment while others are assessed according to their market value. The advantages in kind received with free title are assessed at the market price at the place and on the date the advantage is granted. The advantages received with partial payment are assessed as the difference between the market price and the place and date they are granted and the sum representing the partial payment. The evaluation of the use in personal scope of the goods in the patrimony of the business with mixed use is made proportionally with the use in personal scope of the good or service.

2.1. Service car used in personal interest

The auto vehicles granted by the employer will not generate advantages in kind other than in the circumstances in which they are used in personal interest. Thus, even if granting of a vehicle to the employee represents a benefit for the said employee, it will be considered an advantage, that is taxable income only if is used in personal interest.

In the case of auto vehicles, assessment of the advantage is made as follows:

- applying for each month the percentage of 1.7% to the entering value of the auto vehicle, in case of the assessment of use with free title of the auto vehicle in the patrimony of the business only in personal interest;
- proportionally with the number of kilometers covered in personal interest from the entrance value x 1.7%, in case of mixed use (in personal interest and in the interest of the job) of the vehicle in the patrimony of the business, justified with the route sheet; and, this time there will be taxed as advantage only the quantification of use in personal interest;
- at rent level, in case the vehicle used only in personal interest is rented from a third party;
- proportionally with the number of kilometers covered in personal interest from the level of the rent, in case the vehicle used in personal interest and in the interest of the job is rented from a third party.

The legal entities which possess vehicles have the obligation to issue route sheets or service sheets for the vehicles which take the road.

- a) Mode of calculation of the taxable monthly advantage in case the vehicle is used only in personal interest.

Example: the employer grants an employee a car for totally personal use; the entrance value of the car is lei 105,000. The taxable monthly advantage, in circumstances in which, according to the route sheet, is proved only the use in personal interest, is determined multiplying the entrance value with the percentage of 1.7%, as follows: lei 105,000 x 1,7% = lei 1,785.

The amount of lei 1,785 represents income of the month in which the advantage is received and is cumulated for taxation with the other salary incomes paid the employee during that month.

- b) Mode of calculation of the taxable monthly advantage in case the vehicle is used only in mixed interest.

In case the employee uses the car from the patrimony of the company both in the interest of the job and in personal interest, it is compulsory to fill out a route sheet, recording the number of kilometers covered in the interest of the job and in personal interest. Within the frame of determining the distance covered in personal interest (in order to determine the advantage in kind) there will not be considered the distance round-trip from home to work place, recorded in the route sheet.

Example: In one month from the route sheet results a distance of 385 km covered, of which 45 km in personal interest and 340 km covered in the interest of the job; the taxable advantage will be determined proportionally with the kilometers covered in personal interest, as follows: lei 105,000 x 1,7% = lei 1,785.

The use in personal interest representing approximately 11.69% (45 km in personal interest : 385 km covered %), the advantage will be: lei 1,785 x 11.69% = lei 209 (rounded up). The amount of lei 209 represents monthly income in which the advantage is received and cumulated for taxation with the other salary incomes paid the employee during that month.

2.2. *Service dwelling*

If in the current sense granting of a service dwelling represents clearly a benefit for the employee, from the fiscal point of view this does not represent a taxable advantage in case, by service distribution, appointment as per the law or due to the specific of the activity, the employees benefit from a dwelling in the locality of on the premises where the work place is located and which requires permanent presence in that place. The accommodation granted as service dwellings must be part of employer's patrimony and are administrated in their interest by service distribution or rental to own employees, the rental contract being an attachment to the individual labor contract. In this case, the conditions of renting these dwellings are set by the management of the commercial company de.

The dwellings granted due to the specific of the activity are the dwellings provided for the employees when the activity is carried out in remote places, like meteorological stations, stations for monitoring seismic movements, or under conditions in which permanent presence is required to monitor certain installations, equipment and others similar.

2.3. *Cell phone*

The advantage in the form of phone conversations granted the employees which exceed the limits set by the employer for phone conversations representing use in the interest of the business will be taxed by addition to the salary incomes of the month in which the employee receives this advantage.

In this case, assessment of the advantage is made covering the following phases:

- in the case of phone calls, the employer sets the appropriate part of the calls representing use in personal interest, which represents taxable advantage. To this end, the employer sets the limit of phone calls related to the job for each phone post, and what exceeds this limit is considered advantage in kind, in circumstances in which the cost of such excess calls was not charged to the employee;
- the advantage in form of phone calls granted the employees, represented by the part which exceeds the limit set by the employer for phone calls representing use in the interest of the job will be taxed in addition to the salary incomes of the month in which the employee receives this advantage.

Example: for instance, a commercial company has 10 employees, of which 4 received in mixed use (to carry out the obligations of the job and for use in personal interest) a cell phone each. In order to differentiate the calls made in the interest of the business from the ones made in personal interest, which will represent the advantage in kind to be added to the salary for taxation, the employer set a limit of the phone calls related to the business per each phone at 250 minutes per month, while the exceeding minutes are considered advantage in kind. The equivalents in lei of the advantages in kind are taxable, irrespective of the organizational form of the entity granting them. In case the employee in question was charged with the cost of those calls or he/she covered their value, such calls cannot represent an advantage any longer for the employee.

The value of use in personal interest of the phone offered for carrying out the obligations of the job is not taxed when the employee covers the amount. In such case it cannot represent an advantage in kind since the employee covers in fact the price for the advantage and nit the employer.

2.4. *Gift granting*

Granting gifts to employees became a practice especially as a result of the fiscal provisions which derive such income from the sphere of the taxable ones at the level of the physical entity and include them in the sphere of deductible expenses at the level of the employer.

Granting gifts to employees becomes a benefic lever for both parties – employer and employee – to the extent in which it does not produce negative effects over the obligations due from neither party.

A special case in the materialization of the gifts offered employees is represented by the granting of gift tickets. If initially Law no. 193/2006 on the granting of gift tickets and nursery tickets was wished as a generous law from the fiscal point of view, at present only the provisions of the Fiscal Code are those which regulate the fiscal treatment of these tickets. As a general rule, the incomes received by the employees from their employers in the form of gift tickets are taxable by addition to the income of this nature of the month in which they are paid.

The gift tickets can be used for marketing campaigns, market studies, promotion in existing or new markets or for protocol, for advertising and publicity expenses as well as other social expenses. In case the system of granting gift tickets is used for special results obtained, as a stimulus in the employee motivation schemes, for the celebration of special events in the personal and professional life of the employee, these are assimilated from the fiscal point of view with the income from salaries and taxed according to art. 58 of the Fiscal Code. The employees can benefit from non-taxable gift tickets granted by their employers only on the destinations expressly mentioned above and within the limit of lei 150 for each event.

If these gift tickets are offered to physical entities outside a contractual labor relationship, they will be taxed by retention at the source of only the 16% quota according to art. 78 of the Fiscal Code. It is interesting that, under such circumstances, the income will not be treated as income from salaries, the employer having no obligation to retain at the source other than the 16% tax.

2.5. *Granting meal tickets (non-taxable)^f*

Employers cannot grant more than one meal ticket for each working day of the month for which the distribution is made and cannot consider used more than one meal ticket for each day worked in the month for which the distribution was made. The number of meal tickets used by an employee in a month is at most equal with the number of working days in which he/she is present at work in the unit and cannot exceed the number of days worked, established by the employer.

According to article no. 35 of the Application Norms of Law no. 142/1998 on granting meal tickets, approved by Government Decision no. 5/1999, in case of holding more than one office, the meal tickets can be granted only by the employers where the employees in question have their basic position, as per the law.

The employees within commercial companies which hire personnel by concluding individual labor contracts can receive an individual meal allotment, granted in the form of meal tickets, covered in full by employer costs.

2.6. *Life and health insurance^g*

The value of insurance premiums, except the compulsory ones as per the relevant law, covered by the legal entity or by another entity for its own employees or other beneficiaries of income from salaries, at the moment of payment of the said premium, are considered taxable income, in the form of advantages representing the value of insurance premiums, at the level of the benefiting physical entity, as per the provisions of art. 55 paragraph (3) let. g) of Law no. 571/2003.

Voluntary health insurances represent an optional system by which an insurer constitutes, on the mutuality principle, an insurance fund, by the contribution of a number of insured people exposed to the risk of getting ill, and indemnifies according to the clauses stipulated in the insurance contract, the ones who suffer a prejudice, from the fund built by the collected premiums, as well as the other income resulted following the activity carried out by the insures according to the Fiscal Code. The fiscal treatment of the advantage representing the value of the insurance premiums applicable to beneficiary physical entities is the following:

^f The conditions for granting meal tickets by employers are those provided by the Government Decision no. 5 of January 14, 1999, for the approval of the Application Norms of Law no. 142/1998 on granting meal tickets.

^g We also specify that, pursuant to 42 let. b) of the Fiscal Code, at the level of the physical entity there are not taxable “the amounts collected from insurances of any kind representing insured amounts, as well as any other rights”.

- for the beneficiaries who obtain salary income and assimilated to salaries from the one that covers the insurance premiums, these are taxed by addition to the income of this nature of the month in which the insurance premiums are paid;
- for other beneficiaries who do not have a relation generating salary income and assimilated to salaries with the person covering the insurance premiums, these are taxed according to the provisions of art. 78 of the Fiscal Code. At employer level, according to art. 21 paragraph (4) let. k) of Title II of the Fiscal Code, the “expenses with the insurance premiums paid by the employer in the name of the employee, which are not included in employee’s salary income, are not deductible expenses”. Being taxed at the level of the physical entities, there represent deductible expenses for the determination of the taxable profit.

Under the conditions of the constant increase of the number of employees (in their majority sales agents) at the same time with the personnel fluctuation, turning efficient the personnel administration activity (implementation and management of the procedures of hiring, modifying the contractual elements, ending the activity) was wished to be one of the objectives to be achieved within the shortest time. Thus, management of a large number of clockings, verification and calculation of the bonuses for a larger number of employees, increase of the number of sick leaves of any nature, recording the management guarantees for more employees had as a result an amplification of the responsibilities in what targets the salary system and personnel administration.

Implementation of ISO 9001/2001 standard represents a prospect which involves numerous advantages, allowed for the improvement of the quality of products/services, assurance of a regulated framework which due to the procedures and instructions of work diminish considerably the probability of appearing errors, obtaining a gain of image which facilitates commercial exchanges with the beneficiaries. This aspect refers in fact to the increase of the trust of the partners of the certified organization and is at the same time the premise for the reduction of costs.

This should become a strategic objective for any Romanian organization, considering Romania’s joining the European Union, a process which will reduce considerably the competitive advantage of Romanian producers/suppliers.

One of the stages of the implementation process is represented by training the personnel involved in the elaboration of the procedures/instructions to which the management representative participates together with the persons charged with the elaboration and formulation of the operational procedures.

Validation in practice and optimization of the procedures take place only after a detailed documentation of the organizational structure, technical and human capabilities as well as the specific mode of carrying out the activities. The human resources strategy is integrated in the business strategy and attempts by interventions on human resources as organization, recruitment and selection, performance, to answer the requirements generated by the achievement of the business objectives.

At the level of the studied company, the mission of the human resources department is represented by: the elaboration of equitable systems of remuneration and compensation of the employees; offering assistance to the other departments in order to obtain high level results of work; monitoring the processes of application of the policies of human resources, recruitment and selection, integration within the company of the new employees, promotion and training, supervision of the observation of discipline and ethics rules in the company, solution of conflicts.

Approached systemically and interconnected the processes and sub-processes within the human resources department and subordinated to the informational system of the company, having as main attribution the orientation of the information flux according to the needs of the management process.

Otherwise said, the informational system constitutes a gear which procures information, changes it in a form susceptible to be used by each step of the management, transmits and processes decisions, follows the effects of their application both during the execution and after the end of their action.

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